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S.C. SUPREME COURT

Applicant contends that his guilty plea was involuntarily, unknowingly and unintelligently entered, in violation of his Sixth Amendment Rights.

A defendant has the right to effective assistance of Counsel under the Sixth Amendment to the U.S. Constitution. Terry v. State 383 S.C. 361, 680 SE2d 277. Where a defendant is represented by Counsel during the plea process and enters his plea upon the advice of Counsel, the voluntariness of the plea depends on whether Counsel's advice was within the range of competence demanded of attorneys in criminal cases, Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366. A defendant can show prejudice by demonstrating a reasonable probability that but for counsel's errors he would not have pleaded guilty and would have insisted on going to trial Lee v. U.S., 582 US 357, 137 S.Ct. 1958.

Applicant alleges that plea counsel provided ineffective assistance of counsel because Applicant based his decision to plead guilty on plea counsel's incorrect advice that applicant should accept the guilty plea or

he could have his sentence and charges enhanced based on drug charges that had already been dismissed. This rendered applicants plea involuntary.

Applicant further alleges that plea counsel provided misleading advice when he told applicant that he would receive no more than 15 yrs in exchange for his plea. (See Appendix Pg 67, line 9-12). Applicants case is similar to Dover v. State, 405 SE2d 391 where our Supreme Court held defendants guilty plea invalid due to defendant being led to believe his sentence would not exceed ten years.

Applicant relies on the U.S. Supreme Court's ruling in US v. Cronin, 466 US 648, 104 S.Ct. 2039 that Counsel has a constitutional duty to his client to investigate. Here counsel DeJong admitted that he did not do any independent investigation. Thus relying only on the investigation done on behalf of the State. The guarantee of effective assistance of counsel does not belong solely to the innocent.

Therefore Applicant prays this Honorable Court to grant him the relief he is entitled to either a belated appeal and/or a new trial.

Respectfully Submitted,

Richard A. Hagens

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pro-se